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October 19, 2010

Employer Code: 0384
Job Number: P09-037

City of San Pablo
Bradley Ward, Finance Director
13831 San Pablo Avenue, Building 2
San Pablo, CA 94806

Dear Mr. Ward:

Enclosed is our final report on the results of the public agency review completed for the City of San Pablo. Your agency's written response is included as an appendix to the report. We have reviewed the comments addressed in your written response; however, no changes were made to the issues noted in our report. As part of our resolution process, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed by Margaret Junker

Margaret Junker, CPA, CIA, CIDA
Chief, Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Lori McGartland, Chief, ERSD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Holly Fong, Chief, EMHS, CalPERS

City of San Pablo



Public Agency Review



Office of Audit Services

**Employer Code: 0384
Job Number: P09-037**

October 2010

CITY OF SAN PABLO

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RESULTS IN BRIEF

We reviewed the City of San Pablo's (City) enrolled individuals, health and retirement contributions, member earnings and required health, retirement and Automated Communications Exchange System (ACES) documentation for employees included in our test sample. A detail of the exceptions is noted in the Risk and Mitigation Table. Specifically, the following exceptions were noted during the review:

- Uniform allowance was not reported.
- Plain clothes allowance for a safety officer was incorrectly reported.
- Value of Employer Paid Member Contributions (EPMC) was incorrectly paid and reported.
- An employee's payrate was not listed in a publicly available document.
- Prior period earnings were incorrectly reported.
- Payroll reports and contributions were submitted late.
- A part-time employee was not enrolled in CalPERS membership.
- Ineligible individual was enrolled in CalPERS membership.
- Industrial disability retirement determinations were not made timely.
- Unused sick leave was not reported.
- Required health form was not maintained.
- Eligibility verification for a dependent enrolled in CalPERS Health Benefits Program was not provided.
- Ineligible individual was enrolled into CalPERS Health Benefits Program.
- Health contributions were not remitted timely.
- Required ACES user security agreement forms were not maintained and an ACES deletion form was not submitted.

BACKGROUND

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Employer Services Division (ERSD) manages contract coverage for public agencies and receives, processes, and posts payroll information. CalPERS Benefit Services Division (BNSD) provides services for eligible

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members who apply for service or disability retirement. BNSD sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. The Office of Employer and Member Health Services (EMHS), as part of the Health Benefits Branch (HBB), provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employers' knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

The City of San Pablo was incorporated as a general law city on April 27, 1948. San Pablo is a community of approximately 31,190 residents situated in Contra Costa County on the east side of the San Francisco Bay. The City operates under the Council-Manager form of government and provides the following services: public safety, highways and streets, recreation, public improvements, planning and zoning and general administration services. Memoranda of Understanding (MOU), benefit schedules and employment agreements outline all City employees' salaries and benefits and state the terms of employment agreed upon between the City and its employees.

The City contracted with CalPERS effective November 1, 1958, to provide retirement benefits for its employees. The City's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The City contracted with CalPERS effective January 1, 1989 to provide health benefits to all eligible employees.

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SCOPE

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the City's payroll reporting and enrollment processes as these processes relate to the City's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the City complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations and that prescribed reporting and enrollment procedures were followed. The on-site fieldwork for this review was conducted on November 16, 2009, through November 17, 2009, and November 30, 2009, through December 3, 2009.

The review period was limited to the examination of sampled records and processes from October 1, 2006 through September 30, 2009. To accomplish the review objectives, we performed the following:

- ✓ Reviewed the contract and subsequent amendments the City had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the City had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the City's personnel and payroll procedures.
- ✓ Reviewed the payroll transactions and compared the City's payroll register with the data reported to CalPERS to determine whether the City correctly reported employees' compensation.
- ✓ Reviewed the City's payroll information reported to CalPERS for the sampled employees to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the City's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed reported payroll to determine whether the payment of contributions and the filing of payroll reports were submitted within the required timeframes.
- ✓ Reviewed the City's enrollment practices pertaining to temporary/part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership requirements.
- ✓ Reviewed the City's classification of employees to determine whether the City reported employees in the appropriate coverage groups.

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- ✓ Reviewed the City's process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed the City's calculation and reporting of unused sick leave balances for retiring employees.
- ✓ Reviewed employees and their dependents to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health premium payment information to determine whether the payments were remitted within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the City contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the City maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

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RISK AND MITIGATION TABLE

In developing our opinions, we considered the following risks and mitigations. We also include our observations and recommendations.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS.	<p>We reviewed payroll records and compensation reported to CalPERS for a sample of 17 employees over two service periods. The service periods reviewed were the first service period of December 2008 (12/08-1) and the first service period of July 2009 (7/09-1).</p> <p>The earnings reported to CalPERS were reconciled to the City's payroll records. The City accurately reported compensation to CalPERS for the employees in our sample, except for the following instances:</p> <p><u>Uniform Allowance</u></p> <p>The City reported \$25 per month for the value of the uniforms and uniform maintenance for sworn officers required to wear them. The City correctly reported the uniform allowance for the sampled employees required to wear uniforms, except for one employee. The City did not report the uniform allowance for one sworn officer during either of the two periods tested (12/08-1 and 7/09-1).</p>	<p>The City should review the payroll records of the sworn officers and ensure that the monetary value of uniforms and its maintenance cost are reported as special compensation.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>Government Code, § 20636(c)(6), states, in part, “The board shall promulgate regulations that delineate more specifically and exclusively what constitutes ‘special compensation’ as used in this section. A uniform allowance, the monetary value of employer-provided uniforms.... shall be included as special compensation....”</p> <p>California Code of Regulations, § 571(a)(5), defines uniform allowance as, “Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are for personal health and safety such as protective vests, pistols, bullets, and safety shoes.”</p> <p><u>Non-reportable Compensation</u></p> <p>The City incorrectly reported a plain clothes stipend in the amount of \$600 that was paid to a sampled safety employee.</p> <p>California Code of Regulations, § 571(a), states, "The following list exclusively identifies and defines special compensation items for members employed by contracting</p>	<p>The City should work with CalPERS ERSD to assess the impact of this nonreporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> <p>The City should immediately discontinue reporting the plain clothes stipend and review all safety employees’ compensation reported in the past and ensure that it did not contain the plain clothes stipend.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>agency and school employers that must be reported to CalPERS if they are contained in a written labor policy or agreement.”</p> <p>California Code of Regulations § 571(c) states, “Only items listed in subsection (a) have been affirmatively determined to be special compensation. All items of special compensation reported to PERS will be subject to review for continued conformity with all of the standards listed in subsection (b).”</p> <p><u>Employer Paid Member Contributions (EPMC)</u></p> <p>We reviewed the City’s payment of EPMC and the reporting of EPMC for several sampled employees in service periods 12/08-1 and 7/09-1. We found the City paid and reported EPMC for the sworn group of police employees in accordance with a labor agreement and required resolution. However, the City did not pay and report EPMC in accordance with labor agreements and required resolutions for a police non-safety employee and several sampled executive management employees. In addition, the City paid and reported the value of EPMC for one executive management employee at a rate that was not available to members in the same group or class of</p>	<p>The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> <p>The City should not pay or report the value of EPMC unless required resolutions have been submitted and approved by CalPERS. In addition, the City should not pay or report the value of EPMC for executive management employees unless the City conforms to the “group or class” requirements.</p> <p>Furthermore, the City needs to</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>employment. Specifically, we noted the following:</p> <ul style="list-style-type: none"> • Non-safety police employee: The City paid 7 percent of the member contributions, but only reported 4.7 percent of the EPMC as additional compensation. The Police Employee MOU indicated the City would pay and report the value (7 percent) of EPMC for non-safety members of the police group as additional compensation. The value of EPMC reported, 4.7 percent, was not in accordance with the MOU. Additionally, the City had filed two resolutions with CalPERS. One resolution stated the City would pay 7 percent of the member contributions for non-sworn employees of the Police Association and report the same percent or value as additional compensation. The other resolution stated the City would pay 4.7 percent of the member contributions for all miscellaneous employees. The percentages listed in the resolutions conflicted in this instance as the employee was both a non-safety member of the Police Association and a miscellaneous employee. • The employment agreement for a sampled executive employee indicated the City would pay the employee's full member contributions and report the value of EPMC as additional compensation. The City paid the employee's full member contributions at a rate of 10.3 	<p>clarify which resolution applies to the miscellaneous employees that are members of the Police Association and pay and report the appropriate amounts.</p> <p>The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>percent and reported 8 percent of the EPMC as additional compensation. As previously mentioned, the City filed a resolution with CalPERS to pay only 4.7 percent of the normal contributions for miscellaneous employees. In addition, the City did not file a resolution with CalPERS to report the value of EPMC for miscellaneous employees who were not part of the police group. As a result, the amount of member contributions paid was above the amount authorized in the resolution, and the City did not have a resolution on file to report the value of EPMC.</p> <ul style="list-style-type: none"> • Executive management employees: The City paid and reported 7 percent EPMC on behalf of management employees, all of which were miscellaneous employees. Although this was in accordance with the executive employees' labor agreements, the amount of EPMC paid was greater than the 4.7 percent listed in the City's resolution. Also, the City did not have a required resolution on file with CalPERS to report the value of EPMC. <p>Government Code, § 20636(c)(4), states, "Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, if the employer's labor policy or agreement specifically</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>provides for the inclusion of the normal contribution payment in compensation earnable."</p> <p>Government Code, § 20691, states, in part, "A contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. Where the member is included in a group or class of employment, the payment shall be for all members in the group or class of employment. If an individual is not part of a group or class, the payment shall be limited to the amount that the board determines is payable to similarly situated members in the closest related group or class...."</p> <p>Code of Regulations, § 569, states, in part, "A contracting agency or school employer that pays all or a portion of normal contributions based on compensation earnable, as Employer Paid Member Contributions (EPMC), must conform to the 'group or class' requirements in Section 20691 of the California Government Code...."</p> <p>Code of Regulations, § 571(a)(1), defines the value of EPMC, in part, as, "The full monetary value of employer-paid member contributions (EPMC) paid to CalPERS and reported as compensation on behalf of all members in a group or class. A resolution or ordinance of the governing body must be provided to CalPERS indicating the group or</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>class, effective date, and the percent or amount of EPMC being paid and reported as an item of special compensation. The resolution or ordinance must be formally adopted by the employer's governing body, and submitted to CalPERS for review and approval. The resolution or ordinance must specify that the value of EPMC will be reported as an item of special compensation consistently, for all members in the affected group or class of employment"</p> <p>Government Code, § 20636(e)(1), states, "As used in this part, 'group or class of employment' means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work related grouping. One employee may not be considered a group or class."</p>	
<p>2. The City may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed payrates reported to CalPERS in service period 12/08-1 and reconciled the payrates to the City's public salary information to determine whether payrates for a sample of 16 employees were properly authorized and reported to CalPERS. We determined the payrates reflected on the City's payroll registers and those reported to CalPERS were in accordance with public salary information except for one employee.</p> <p>Specifically, the contract stated that the employee</p>	<p>The City should ensure all employees' salaries are listed in a schedule available for public viewing. In addition, the City should ensure all reportable compensation is clearly identified in current employee contracts.</p> <p>The City should work with CalPERS ERSD to assess the</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>2. The City may not report payrates in accordance with publicly available salary schedules. (continued)</p>	<p>received a salary of \$8,167.54 for each of the 24 pay periods in the year. There was also an amendment to the contract that gave the employee a four percent cost-of-living adjustment (COLA), which brought the employee's total salary to \$8,494.27 per pay period; however, the City reported \$8,757.54 to CalPERS, which exceeded the reportable payrate.</p> <p>The City explained that the employee's prior contract provided an additional three percent for longevity pay and that the current contract contained benefits from previous contracts. Therefore, the employee's total pay would be the \$8,167.54 plus a four percent COLA from the current contract, plus the three percent longevity pay from the previous contract for a total payment of \$8,757.54 per pay period.</p> <p>We were able to verify that the three percent longevity pay was contained in the previous contract; however, it was not in the current contract.</p> <p>Government Code, § 20636(b)(1), states, in part, "Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant</p>	<p>impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>2. The City may not report payrates in accordance with publicly available salary schedules. (continued)</p>	<p>to publicly available pay schedules.”</p> <p>Government Code, § 20636(d), states, "Payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny."</p>	
<p>3. The City may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the payroll information reported to CalPERS for 16 sampled employees in service period 12/08-1. Our sample testing revealed that the City correctly reported the payroll information to CalPERS except for one instance.</p> <p>One sampled employee was paid a total of \$2,860.11 for “longevity pay” owed for multiple periods. The City incorrectly reported the longevity pay as a lump sum payment. The City should have reported the retroactive longevity pay with a separate entry for each service period in which it was earned, instead of in a lump sum payment.</p> <p>Government Code, § 20630(b), states, in pertinent part, “When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid.”</p> <p>Government Code, § 20636(c) (3), states, “Special compensation shall be for services rendered during normal</p>	<p>The City should immediately begin reporting longevity pay adjustments for the periods earned.</p> <p>The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
3. The City may not accurately report payroll information to CalPERS. (continued)	working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.”	
4. The City may fail to or did not submit payroll in a timely manner to CalPERS.	<p>We reviewed the payroll information for the following service periods: February 2008 (2/08-2), September 2008 (9/08-2), April 2009 (4/09-2) and July 2009 (7/09-1). We found that payroll information for the four service periods reviewed was not submitted within the required timeframes. Specifically:</p> <ul style="list-style-type: none"> • The 2/08-2 contributions were due on March 15, 2008 but were made on March 17, 2008; two days late. The summary report was due on March 29, 2008, but was dated April 9, 2008; 10 days late. • The 9/08-2 contributions were due on October 15, 2008 but were made on October 31, 2008; 16 days late. • The 4/09-2 contributions were due on May 15, 2009 but were made on May 29, 2009; 14 days late. • The 7/09-1 contributions were due on July 30, 2009 but were made on August 21, 2009; 22 days late. The summary report was due on August 14, 2009, but was dated August 18, 2009; four days late. 	<p>The City should implement procedures to ensure that the retirement contributions and the payroll summary reports are submitted timely to CalPERS.</p> <p>The City should work with CalPERS ERSD to assess the impact of late payroll reporting and determine what adjustments, if any, are needed.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The City may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<p>California Code of Regulations, § 565, states, "Member and employer contributions shall be received in the system's Sacramento office on or before 15 calendar days following the last day of the pay period to which they refer."</p> <p>California Code of Regulations, § 565.1(b), states, "For employers reporting on a pre-list method, a complete and orderly payroll report for each pay period shall be filed with the System at its Sacramento office on or before 30 calendar days following the last day of the period to which it refers, or on or before 20 calendar days after mailing, by the System, of the pre-list therefor, whichever is the later."</p>	
<p>5. The City may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Optional Membership</u></p> <p>The City's elected officials were eligible for optional CalPERS membership. We reviewed the City's enrollment practices and determined that the elected officials were offered optional membership.</p> <p><u>Temporary/Part-time Employees</u></p> <p>We selected a sample of four temporary/part-time employees in fiscal year 2007/2008 and two temporary/part-time employees in fiscal year 2008/2009 and examined the number of hours worked to determine</p>	<p>None.</p> <p>The City should enroll temporary/part-time employees into CalPERS membership when they have reached the</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>whether they reached or exceeded the 1,000 hour membership eligibility criterion. Our sample testing showed that the City correctly excluded five of the temporary/part-time employees from membership because they did not work more than 1,000 hours in a fiscal year. However, the City failed to enroll one employee who worked more than 1,000 hours during fiscal year 2007/2008. The cumulative hours worked by the employee exceeded 1,000 in fiscal year 2007/2008 during the pay period ending February 12, 2008. The employee should have been enrolled as of February 13, 2008.</p> <p>Government Code, § 20305(a)(3)(B), states, in part, “An employee serving on a less than full-time basis is excluded from this system unless the person works more than 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed...”</p> <p>CalPERS Procedure Manual, page 25, states, “Since the ‘overtime’ provisions of section 20635 apply only to members of CalPERS, overtime service is included in computing the 1,000 hours or 125 days.”</p>	<p>membership eligibility criterion.</p> <p>The City should also review the hours worked by all other part-time employees and enroll those that worked 1,000 hours or more in a fiscal year.</p> <p>The City should work with CalPERS ERSD to assess the impact of this non-enrollment and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p><u>Employee of a Non-Member Agency was Incorrectly Enrolled into Membership</u></p> <p>The City incorrectly enrolled an employee of a separate and non-member public agency into CalPERS membership for retirement benefits. The agency, West Contra Costa Transportation Advisory Committee (WCCTAC), was a separate legal entity. We examined the employee's contract and confirmed that the employee was an employee of WCCTAC, and not an employee of the City. As WCCTAC does not have a contract with CalPERS, this employee should not be enrolled into membership.</p> <p>Government Code, § 20056, states, "Public Agency means any city, county, district, other local authority or public body of or within this state."</p> <p>Government Code, § 20502, states, in part, "The contract shall include in this system all firefighters, police officers, county peace officers, local sheriffs, and other employees of the contracting agency...."</p> <p>Government Code, § 20028(b), defines an employee as "Any person in the employ of a contracting agency."</p>	<p>The City should exclude the individual from membership. The City should also ensure that all other WCCTAC employees are excluded from membership for retirement benefits.</p> <p>The City should work with CalPERS ERSD to determine the impact of the incorrect enrollment and what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The City may not enroll all eligible employees into CalPERS membership. (continued)	<p>Government Code, § 20125, states, "The board shall determine who are employees and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system."</p> <p><u>Independent Contractors</u></p> <p>We reviewed the City's IRS 1099 Miscellaneous Income forms for calendar years 2007 and 2008 in order to identify employees that may be misclassified as independent contractors. The selected individuals were properly classified as independent contractors and correctly excluded from CalPERS membership.</p>	None.
6. The City may unlawfully employ retired annuitants.	We reviewed the hours worked for one retired annuitant in fiscal year 2007/2008 and two retired annuitants in fiscal year 2008/2009. Our sample testing revealed that the retired annuitants did not exceed the 960 hour threshold.	None.
7. The City may not appropriately report members under the proper coverage group code.	Our testing revealed that the City reported sampled employees under the appropriate coverage group code.	None.

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members.</p>	<p>We reviewed the City's procedures for processing applications for industrial disability retirement (IDR). We found that the City had appeals procedures in place; however, the City did not process determinations for two IDR applications timely during the review period. Specifically,</p> <ul style="list-style-type: none"> • An IDR request was made of the City for one employee on August 9, 2007, but the City did not make the determination until July 1, 2008; 143 days late. The employee did not waive this requirement. • An IDR request was made of the City for another employee on July 23, 2008, but the City did not make the determination until January 29, 2009; six days late. The employee did not waive this requirement. <p>Government Code, § 21157, states, "The governing body of a contracting agency shall make its determination within six months of the date of the receipt by the contracting agency of the request by the board pursuant to Section 21154 for a determination with respect to a local safety member. A local safety member may waive the requirement of this section."</p>	<p>The City should make IDR determinations within the required six month period or obtain a waiver of this requirement from the applicant.</p> <p>The City should work with CalPERS BNSD to assess the impact of the late IDR determinations, if any.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS BNSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The City may not accurately report unused sick leave balances for retiring CalPERS members.</p>	<p>Our sample testing revealed that the City accurately reported the balance of unused sick leave for two of the three sampled retirees. However, the City did not report any unused sick leave for the third sampled retiree. The payroll records at the City showed that the third retiree had an unused sick leave balance of 354.63 hours (44.33 days). The City should have reported the 44.33 days of unused sick leave for additional service credit.</p> <p>Government Code, § 20965 provides for a local miscellaneous member and local safety member of a contracting agency who has contracted for this provision, whose effective date of retirement is within four months of separation from employment, to be credited at the time of retirement with 0.004 years of service credit for each unused day of sick leave certified to the board by his employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit.</p>	<p>The City should submit a corrected certification form for the employee. An amended certification form (PERS-BSD-200) may be used to submit the information.</p> <p>The City should review the unused sick leave balances of the employees who retired during the review period to determine if their unused sick leave balances were properly reported to CalPERS.</p> <p>The City should work with CalPERS BNSD to assess the impact of this issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the retiree mentioned in this section of the report has been sent to the City and CalPERS BNSD as an appendix to our draft report.</p>

CITY OF SAN PABLO

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>10. The City may not properly enroll eligible employees and their dependents in health benefits.</p>	<p>We reviewed a sample of six employees to assess the health benefits eligibility and enrollment of members and their dependents. Our sample testing revealed that the City properly enrolled eligible employees and their dependents in CalPERS Health Benefits Program, except in the following two instances:</p> <p><u>Required Health Documentation was not Provided</u></p> <p>A Declaration of Health Coverage (HB-12A) form was not on file as required for one City employee. The employee added a child as a dependent on December 1, 1998, three additional dependents on September 1, 2001, and another dependent on January 1, 2002. The City subsequently provided an HB-12A form that was signed after the audit period. In addition, the City did not provide a copy of a marriage certificate to support the enrollment of a sampled member's dependent.</p> <p>The CalPERS Public Agency Health Benefits Procedure Manual, Page 12-01, states, in part, "The Declaration of Health Coverage (HB-12A) provides information on enrollment options and consequences for non-enrollment. The HB-12A is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA). Effective January 1, 1998, each employee must sign the</p>	<p>The City must ensure that the proper member and dependent enrollment documentation is on file at the City within 60 days from the date of our final report.</p> <p>Please send an email to: <i>HBB_Audit_Services@calpers.ca.gov</i> once the requested documentation is on file. The CalPERS HBB may be contacted at (916) 795-3836 with any questions.</p> <p>A confidential list identifying the employees mentioned in this report has been sent to the City and CalPERS HBB as an appendix to our draft report.</p>

CITY OF SAN PABLO

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>HB-12A when they are first eligible to enroll or when they make any change to their health coverage. This includes Open Enrollment changes, changing health plans when moving, adding or deleting a dependent, or canceling health benefits. The employer must provide the HB-12A at the time the employee requests enrollment or with the Health Benefit Plan Enrollment (HBD-12) form. The employer also must provide the employee a copy of the signed form and keep the original in the employee's file."</p> <p>The CalPERS Public Agency Health Benefits Procedure Manual, Page 03-03, outlines the documentation required to verify dependent eligibility and states, in pertinent part, "To assure that only eligible dependents are covered, CalPERS, as well as the contracting agencies, have the right to request any documentation needed to support dependent eligibility at the time of enrollment, or any time thereafter...."</p> <p>Government Code, § 22775, defines family member as, "The employee's or annuitant's spouse or domestic partner and any unmarried child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children."</p>	

CITY OF SAN PABLO

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)	<p>California Code of Regulations, § 599.500 states, in part, “(k) Eligible means eligible under the law and this subchapter to be enrolled...”</p> <p>Government Code, § 20085, states, in part, “(a) It is unlawful for a person to do any of the following: (1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system. (b) For purposes of this section, ‘statement’ includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or continued eligibility for a benefit or the amount of a benefit administered by this system. (c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine. (d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system... for the amount of the benefit unlawfully obtained.”</p>	

CITY OF SAN PABLO

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p><u>Employee of a Non-Member Agency was Incorrectly Enrolled in Health Benefits</u></p> <p>The City improperly enrolled an employee of WCCTAC into the Health Benefits Program. This was the same employee identified in Risk 5. The City should not have enrolled the WCCTAC employee for health benefits.</p> <p>Government Code, § 20056, states, "Public Agency means any city, county, district, other local authority or public body of or within this state."</p> <p>Government Code, § 20125, states, "The board shall determine who are employees and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system."</p> <p>Government Code, § 22800(a), states, "An employee or annuitant is eligible to enroll in an approved health benefit plan, in accordance with this part and the regulations of the board."</p>	<p>The City should ensure that all WCCTAC employees are excluded from the Health Benefits Program.</p> <p>The City should work with CalPERS HBB to access the impact of the incorrect enrollment and determine what adjustments are needed.</p> <p>A confidential list identifying the employee mentioned in this report has been sent to the City and CalPERS HBB as an appendix to our draft report.</p>
<p>11. The City may not contribute the appropriate health contribution amounts for active employees.</p>	<p>We reviewed the health contributions reported for June 2009. We determined that the City contributed more than the contracted health contribution amounts as part of the sampled members' total monthly premium amount.</p>	<p>None.</p>

CITY OF SAN PABLO

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>12. The City may not remit health contributions within the required timeframe.</p>	<p>We determined that the City remitted the health contributions within the appropriate timeframe except for one instance. The health contributions for May 2008 were due on May 10, 2008, but were not remitted until May 12, 2008; two days late.</p> <p>Government Code, § 22899 (a), specifies that the contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due.</p>	<p>The City should ensure health contribution payments are received by CalPERS no later than the 10th of the month in which the payments are due.</p>
<p>13. The City may not maintain appropriate ACES security procedures.</p>	<p>We reviewed the security procedures for the City's ACES users to determine whether reasonable security precautions were maintained and to determine whether the required security documents were properly completed and filed for ACES users.</p> <p>We determined that the City maintained reasonable security procedures and precautions for ACES users. However, the City did not maintain ACES User Security Agreements on file and did not submit a deletion form for an employee who no longer required ACES access.</p> <p>CalPERS ACES security procedures outlined on the CalPERS website at www.calpers.ca.gov require agencies to keep a signed copy of security documents on file for</p>	<p>The City should follow appropriate procedures to ensure the security of CalPERS ACES. Employer User Security Agreements should be completed timely and retained in a secure worksite location for the life of the Agreement and for two years following the deactivation or termination of the Agreements.</p> <p>In addition, the City should immediately submit a deletion form when an employee no</p>

CITY OF SAN PABLO

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
13. The City may not maintain appropriate ACES security procedures. (continued)	<p>ACES users. A Delete "ACES User Access" Form (AESD-42) must be completed and submitted to CalPERS when requesting the deletion of a user account. Agencies must complete and submit this form to notify CalPERS when an employee will no longer be an ACES user.</p> <p>State law requires that all CalPERS sensitive or confidential information must be protected, and used only for performing official CalPERS business. Forms must be retained in a secure work site location of the employer, for the life of the Agreement and for two years following the deactivation or termination of the Agreement.</p> <p>CalPERS is to be notified immediately in the event that any of its sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction.</p>	<p>longer requires ACES access.</p> <p>The City should work with CalPERS ERSD to assess the impact of this issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

CITY OF SAN PABLO

CONCLUSION

We limited this review to the areas specified in the scope section of this report. We limited our test of transactions to samples of the City's payroll reports and personnel records. The sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code, except as noted above.

Respectfully submitted,

Original Signed by Margaret Junker

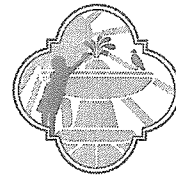
Margaret Junker, CIA, CPA, CISA
Chief, Office of Audit Services

Date: October 2010

Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIDA, Manager
Alan Feblowitz
Kesh Braeger
Carol Northrup

APPENDIX

CITY'S WRITTEN RESPONSE



September 10, 2010

Margaret Junker, Interim Chief Auditor
CalPERS
Office of Audit Services
P.O.Box 942701
Sacramento, CA 94229-2701

**SUBJECT: RESPONSES FROM THE CITY OF SAN PABLO TO THE PERS DRAFT AUDIT REPORT
DATED JULY 2010**

Dear Ms. Junker.

We have reviewed the draft audit report and talked with Carol Northrup of your staff to go over the audit results. Based on our review the comments are as follows:

1. The City may not accurately report compensation to Cal PERS

a. Uniform Allowance

- i. *The City has reviewed the payroll records of the sworn offices and uniform value is now being reported correctly*

b. Non-reportable Compensation

- i. *The City has corrected the payroll system so that uniform allowance is not considered PERS compensation*

c. Employee Paid Member Contributions (EPMC)

- i. *The City has submitted the required resolution (Resolution 2010-090) to PERS correcting the inconsistencies between the prior resolution and the MOU's and adding executive management employees.*
- ii. *The executive management employee who was being paid at a rate that was not available to members of the same group or class has been notified that his contract does not comply with PERS law and that it needs to be changed.*
- iii. *A staff report will be going to the City Council informing them of the non compliant contract with corrective actions to be recommended for implementation during FY 2010-11, with a deadline for compliance with CalPERS requirements by December 31, 2010.*

2. The City may not report pay rates in accordance with publically available salary schedule

- i. *This refers to the same executive management contract as was noted in question 2. The confusion was that the prior contract had a 3% longevity pay yet it was not in the current contract.*
- ii. *The contract increased the base rate of pay by 3%. Since this is not consistent with other members of this class the contract needs to be changed.*

- iii. A staff report will be going to the City Council informing them of the non compliant contract with corrective actions to be recommended for implementation during FY 2010-11, with a deadline for compliance with CalPERS requirements by December 31, 2010.*
- 3. The City may not accurately report payroll information to Cal PERS**
 - i. This refers to a payroll action form that was adding longevity pay. The form is the responsibility of the employee and his supervisor. When it is not submitted timely to Human Resources there is a delay. As soon as the form is received it is processed*
 - ii. The City will remind the employees and supervisors to turn in payroll action forms on time.*
 - iii. When the City tried to report to PERS via ACES the period in which the longevity pay (type 9) was earned the program edit rejected the entry and would only accept a lump sum payment.*
- 4. The City may fail to or did not submit payroll in a timely manner to Cal PERS**
 - i. All payroll information is submitted to PERS online through the ACES software program. After the City submits the detailed payroll information the software does an edit check and returns to the City the amount to be contributed.*
 - ii. The summary report is due within 30 days and the contributions are due within 15 calendar days. Since the amount to be contributed is not available until the summary report is completed there is an inconsistency in PERS regulations.*
 - iii. The City is now filing the summary report early so that the amount to be contributed can be determined before 15 days.*
- 5. The City may not enroll all eligible employees into Cal PERS membership**
 - a. Optional Membership**
 - i. No adjustment needed as the City is in compliance*
 - b. Temporary / Part-time Employees**
 - i. The City was tracking all regular hours an employee worked as overtime hours are not included in PERS compensation. However, for the 1000 hour PERS enrollment requirement all hours should have been tracked.*
 - ii. The City has modified their reports so that all hours are now tracked and when an employee exceeds 1000 hours in a fiscal year they will be enrolled in PERS.*
 - c. Individual was Incorrectly Enrolled into Membership**
 - i. Attached is the documentation authorizing WCCTAC employees to be included on the City's PERS plan.*
- 6. The City may unlawfully employ retired annuitants**
 - i. No adjustment needed as the City is in compliance*
- 7. The City may not appropriately report members under the proper coverage group code**
 - i. No adjustment needed as the City is in compliance*
- 8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members**
 - i. The City was working with Ms. Marilyn Keller and an additional extension for determination was secured.*

- ii. *On the second finding the City faxed the response to PERS on January 21, 2009, which was within the time frame required. PERS did not post the response until January 29, 2009 which caused the report to be late by 6 days.*
- 9. **The City may not accurately report unused sick leave balances for retiring Cal PERS members**
 - i. *When an employee wishes to retire they deal directly with PERS. Part of this process is that they estimate how much sick leave they will have at retirement. The employee in question never sent his form to Human Resources.*
 - ii. *Human Resources will submit an amended certification form (PERS-BSD-200) to correct this error.*
 - iii. *Human Resources / Payroll will verify the information that a retiring employee is submitting to PERS to ensure that it is completed correctly.*
- 10. **The City may not properly enroll eligible employees and their dependents in health benefits**
 - a. **Required Health Documentation was not Provided**
 - i. *The HB-12A was signed after the audit period*
 - ii. *HB-12A will be filed on time for future employees*
 - b. **Employee of a Non-Member Agency was Incorrectly Enrolled in Health Benefits**
 - i. *Attached is the documentation authorizing WCCTAC employees to be included on the City's PERS plan.*
- 11. **The City may not contribute the appropriate health contribution amounts for active employees**
 - i. *No adjustment needed as the City is in compliance*
- 12. **The City may not remit health contributions within the required timeframe**
 - i. *May 10, 2008 was a Saturday and no banking transactions were transacted on that date. The funds did arrive on Monday May 12th.*
- 13. **The City may not maintain appropriate ACES security procedures**
 - i. *The City does ensure that only authorized employees can log onto the ACES system.*
 - ii. *The City will update the ACES User Security Agreements and submit a deletion form for those employees who no longer should have ACES access.*

If you have any questions or need clarification on our responses you can call me at 510-215-3024

Sincerely,



Bradley J Ward, CPA, MBA
Finance Director